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LAND USE COMMISSION  
STATE OF HAWAII  
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County of Kaua'i Housing Agency

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of	)	Docket No. A17-802
	)	
COUNTY OF KAUA'I HOUSING	)	PETITION FOR LAND USE DISTRICT
AGENCY	)	BOUNDARY AMENDMENT;
	)	VERIFICATION OF PETITION;
To Amend the Agricultural Land Use	)	EXHIBITS "1" – "25"; AFFIDAVIT OF
District Boundaries into the Urban Land	)	DAVID J. MINKIN ATTESTING TO
Use District for certain lands situated at	)	SERVICE OF PETITION; AFFIDAVIT
'Ele'ele, Kaua'i, Hawai'i; consisting of	)	OF DAVID J. MINKIN ATTESTING TO
approximately 75 acres, Tax Map Key	)	MAILING OF NOTIFICATION OF
No. (4) 2-1-001:054	)	PETITION FILING; CERTIFICATE OF
_____	)	SERVICE

**PETITION FOR LAND USE DISTRICT BOUNDARY AMENDMENT**

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Exhibit 1	Warranty Deed with Restrictions and Covenants
Exhibit 2-A	License Agreement dated February 26, 2010 by and between the County of Kauai, as Licensor therein, and McBryde Sugar Company, Limited, as Licensee therein.
Exhibit 2-B	Consent to Sublicense
Exhibit 3	Final Environmental Assessment and Finding of No Significant Impact
Exhibit 4	Lima Ola 201H Application
Exhibit 5	Kaua'i County Council Resolution No. 2016-53 and Amendment
Exhibit 6	Status Report issued by Title Guaranty of Hawaii, Inc.
Exhibit 7-A	[DRAFT] Notice of Petition Filing
Exhibit 7-B	Notice of Intent to File a Land Use District Boundary Amendment Petition
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Exhibit 8	Proposed Findings of Fact, Conclusions of Law and Decision and Order
Exhibit 9	Affidavit of Kanani Fu Attesting Petitioner met with Interested Community Groups
Exhibit 10	Certification of County of Kaua'i Housing Agency that Lima Ola Workforce Housing Development is a 201H-38 Affordable Housing Project
Exhibit 11-A	Tax Map
Exhibit 11-B	Property Description
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Exhibit 12	Grant of Petition for a Declaratory Order, dated February 8, 2017
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Exhibit 17	Letter from County Department of Public Works, Wastewater Management Division dated June 30, 2016
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BEFORE THE LAND USE COMMISSION  
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In the Matter of the Petition of	)	Docket No. A17-802
	)	
COUNTY OF KAUA'I HOUSING	)	
AGENCY	)	
	)	
To Amend the Agricultural Land Use	)	
District Boundaries into the Urban Land	)	
Use District for certain lands situated at	)	
'Ele'ele, Kaua'i, Hawai'i; consisting of	)	
approximately 75 acres, Tax Map Key	)	
No. (4) 2-1-001:054	)	
_____	)	

**PETITION FOR LAND USE DISTRICT BOUNDARY AMENDMENT**

The COUNTY OF KAUA'I ("**County**"), a municipal corporation, by and through its Housing Agency, a political subdivision of the State of Hawai'i ("**Petitioner**"), by and through its legal counsel, McCorriston Miller Mukai MacKinnon LLP, a limited liability law partnership, hereby petitions the Land Use Commission (the "**Commission**") of the State of Hawai'i ("**State**") to amend the land use district classification of certain lands consisting of approximately 75 acres situate at 'Ele'ele, County of Kaua'i, Hawai'i (the "**Petition Area**") from the State Land Use Agricultural District ("**Agricultural District**") to the State Land Use Urban District ("**Urban District**"). The Petition Area is intended to be developed as a 100% affordable housing project pursuant to Hawai'i Revised Statutes ("**HRS**") Chapter 201H.

**I. INTRODUCTION**

Petitioner respectfully requests reclassification of the Petition Area in order to develop Lima Ola Workforce Housing Development, a master-planned project of affordable homes ("**Lima Ola**" or the "**Project**"). The Project would include approximately 550 residential units, including single-family and multi-family residential units, at the final buildout. Lima Ola is an affordable

housing project that will be developed under HRS Chapter 201H, which provides for exemptions from State and County land use regulations, and permits the fast tracking of the land use entitlements process to encourage the development of affordable housing.

The objective for Lima Ola is to provide housing opportunities for County households earning from 80 percent and below of the County median household income to 140 percent of the County median household income. The Project will provide a variety of housing types and occupancy that meet the lifestyle needs and preferences of people at different stages of life. The Project would be designed with roadways, green sustainable energy efficiency features, a community center/park, vegetated drainage swales, landscaped areas, a water storage tank, and pathways (pedestrian and bicycle).

**A. Background**

In 2004, the Kaua'i County Council passed an affordable housing resolution to acquire land for affordable housing. In 2010, the County purchased the approximately 75-acre parcel from McBryde Sugar Company, Limited ("*McBryde*") with the restriction that the site be used for affordable housing or agricultural purposes. A certified copy of the Warranty Deed is attached as **Exhibit 1**. Currently, the County has license and sublicense agreements with McBryde and Kauai Coffee Company, LLC ("*Kauai Coffee*") permitting their use of the Petition Area for growing coffee. See License Agreement, Exhibit 2-A; see Consent to Sublicense, Exhibit 2-B. McBryde and Kauai Coffee are required to vacate only when the County needs possession of the Petition Area to commence development of the Project.

In 2009, the Petitioner began implementation of the master plan for the Petition Area with a bond allocation from the general fund. Additional planning funds became available in Spring 2011 when the County received a federal grant from the United States Department of Health and

Human Service, Centers for Disease Control and Prevention under the Communities Putting Prevention to Work program.

The master plan team was assisted by a Citizen Advisory Committee (the “CAC”) that included seven (7) community members with long-standing ties to and knowledge of ‘Ele‘ele, Hanapēpē, and the larger Westside region. The CAC met in August and October 2011 to review three alternative site plans and subsequent revisions. A public information meeting was held in September 2011.

The Petitioner submitted the Final Environmental Assessment and Finding of No Significant Impact (the “FEA-FONSI”) to the Office of Environmental Quality Control for publication in June 2016. The FEA-FONSI is attached as **Exhibit 3** and incorporated herein by reference.

On August 5, 2016, the Petitioner filed an application for affordable housing development with the Kaua‘i County Council requesting approval of certain exemptions pursuant to HRS § 201H-38. See **Exhibit 4**. The Administrative Rules for the Kaua‘i County Housing Agency, Subchapter 5, Section 5.3, 201H Exemption Projects, outlines the rules for administering proposed exemptions under HRS Chapter 201H. The County rules include a four-phase process:

- Phase I – Pre-consultation with the County Housing Agency, State and County Departments, public utility providers and the public;
- Phase II – Submission of a completed 201H Application to the County Housing Agency;
- Phase III – Determination of eligibility by the County Housing Agency based on review of the submitted 201H Application;
- Phase IV – Formal project review and processing.

In this case, the Project has fulfilled the County process described above. After due consideration, the Kaua‘i County Council enacted Resolution No. 2016-53, which approved the requested exemptions from County requirements. See Resolution 2016-53, **Exhibit 5**.



**II. AUTHORITY FOR RELIEF SOUGHT – HAR § 15-15-50(a)(1), (2)**

Petitioner alleges standing to petition the Commission for a District Boundary Amendment pursuant to Hawai‘i Administrative Rules (“**HAR**”) § 15-15-46(2) and (3), and HRS § 205-4(a). The Commission is authorized to grant the relief pursuant to HRS Chapters 201H and 205, as amended, and all other statutes and rules applicable to the Commission.

Petitioner reserves the right to further amend this Petition in response to any reports, pleadings, arguments, exhibits, issues, and witnesses identified by any party or person.

**A. Identification of Petitioner – HAR § 15-15-50(c)(1)**

The Petitioner is a municipal corporation and political subdivision of the State, acting through its Housing Agency, a duly formed agency of the County administering Chapter 7A of the Kaua‘i County Code. The County is the record fee simple owner of the Petition Area. Petitioner’s principal place of business is 4444 Rice Street, Līhu‘e, Hawai‘i 96766.

**B. Identification of Authorized Representative – HAR § 15-15-50(c)(2)**

The law firm of McCORRISTON MILLER MUKAI MacKINNON LLP has been appointed and is hereby authorized to represent Petitioner in this Petition and the proceedings thereon pursuant to HAR § 15-15-35(b). All correspondence and communications in regard to this Petition shall be addressed to:

McCORRISTON MILLER MUKAI MacKINNON LLP  
Attention: David J. Minkin, Esq.  
Five Waterfront Plaza, 4<sup>th</sup> Floor  
500 Ala Moana Boulevard  
Honolulu, Hawai‘i 96813  
Telephone No. (808) 529-7300

COUNTY OF KAUA‘I HOUSING AGENCY  
Attention: Kanani Fu, Housing Director  
4444 Rice Street, Suite 330  
Līhu‘e, Kaua‘i, Hawai‘i 96766

**C. Petitioner's Property Interest – HAR § 15-15-50(c)(5)(A)**

Petitioner is the fee owner of the Petition Area. See Warranty Deed, **Exhibit 1**. A Status Report issued by Title Guaranty of Hawaii, Inc., dated November 25, 2016, demonstrates that Petitioner is the sole fee owner of the Petition Area. See **Exhibit 6**.

**D. Notification of Petition Filing – HAR §§ 15-15-50(c)(5)(C), (c)(23)**

Attached as **Exhibit 7-A** is a draft of the notification of petition filing of this Petition. A copy of the notification of petition filing will be sent to all persons on the Commission's State and County mailing lists. A draft affidavit of David J. Minkin, attorney at McCorriston Miller Mukai MacKinnon LLP, attesting to compliance with HAR § 15-15-50(d), is filed with this Petition.

The draft affidavit of David J. Minkin attesting to Petitioner's compliance with HAR § 15-15-48 (Service of Petition) is filed with this Petition.

**E. Petitions for HRS § 201H Housing Projects**

**1. HAR § 15-15-97(b)**

Attached as **Exhibit 7-B** is a copy of the Notice of Intent to File a Land Use District Boundary Amendment Petition, which was filed with the Commission on April 13, 2017. Petitioner's Notice of Intent to File a Land Use District Boundary Amendment Petition was served on all necessary parties on April 13, 2017. See Affidavit of Service, **Exhibit 7-C**. Petitioner's Notice of Intent to File a Land Use District Boundary Amendment Petition was published in The Honolulu Star-Advertiser and The Garden Island on April 13, 2017, and published in Hawaii Tribune-Herald, West Hawaii Today, and The Maui News on April 14, 2017. See Affidavit of Publication, **Exhibit 7-D**.

2. **HAR § 15-15-97(k)**

The Project conforms with HAR § 15-15-97(k):

- (1) No Conservation District lands are involved in this Petition. Although not required by HAR § 15-15-97(k), the FEA-FONSI is attached as **Exhibit 3**.
- (2) Petitioner's Proposed Findings of Fact, Conclusions of Law and Decision and Order is attached as **Exhibit 8**. Petitioner reserves the right to file an Amended Proposed Findings of Fact, Conclusions of Law and Decision and Order with the Commission.
- (3) An affidavit of Petitioner attesting that the Petitioner met with interested community groups to discuss the Project is attached as **Exhibit 9**.
- (4) Petitioner is exempt from providing information on how the Petitioner proposes to finance the proposed development. See HAR § 15-15-50(c)(9). According to the Market Study of the Proposed Lima Ola Workforce Housing Development prepared by The Hallstrom Group (the "**Market Study**"), the Project has the necessary attributes to be competitive with the west/south Kaua'i real estate sector. The Market Study estimated that the Project could achieve an average Market Share Rate of between 15 and 20 percent, and has a total absorption period of 6-plus to 12 years. **Exhibit 4** at Exhibit 15. The Management/Sales Plan provides detailed sales and rental information, as well as information regarding a funding summary and development budget. See Exhibit 16 of **Exhibit 4**.
- (5) Certification of the Petitioner that the Project involves a HRS § 201H-38 affordable housing project is attached as **Exhibit 10**.

### **III. DESCRIPTION OF THE SUBJECT PROPERTY**

#### **A. Description of the Subject Property– HAR § 15-15-50(c)(3)**

The approximately 75-acre Petition Area is located at ‘Ele‘ele, Kōloa, Kaua‘i, being Tax Map Key No. (4) 2-1-001:054, as illustrated on the tax map attached as **Exhibit 11-A**. The legal description of the Petition Area is provided in **Exhibit 11-B**.

The development of the Petition Area is anticipated to occur in a series of phases over several decades. The Commission granted the Petitioner’s request for a waiver of the incremental development schedule and map requirements on February 8, 2017. See Declaratory Order, **Exhibit 12**.

#### **B. Easements on the Subject Property – HAR § 15-15-50(c)(6)**

The three (3) easements on the subject property are listed below. Additional detail regarding the easements is provided in the **Status Report** attached as **Exhibit 5**.

1. A grant of a perpetual nonexclusive easement for utility purposes to Citizens Utilities Company, whose interest is now held by Kaua‘i Island Utility Co-Op.
2. A grant of nonexclusive easements for drainage, drainage detention basin and waterline purposes in favor of Kaua‘i Habitat for Humanity, a Hawai‘i nonprofit corporation.
3. A grant of Easement W-1 and W-2 for water purposes in favor of Board of Water Supply, County of Kaua‘i.

### **IV. REQUESTED RECLASSIFICATION**

#### **A. Boundary Amendment Sought by Petitioner and Present Use of the Property – HAR § 15-15-50(c)(4)**

Petitioner seeks to have the Petition Area reclassified from the Agricultural District to the Urban District in order to develop Lima Ola, a HRS Chapter 201H affordable housing project. The Petition Area is presently used for coffee production pursuant to a license and sublicense with McBryde and Kauai Coffee. The license and sublicense will terminate upon notice to the licensees

that the County requires possession of the Petition Area to commence development of the Project. See Exhibits 2-A, 2-B.

The conformity of the reclassification to the standards for determining Urban District reclassification is discussed in Section XII.

**B. Type of Use or Development Being Proposed – HAR § 15-15-50(c)(7)**

Lima Ola, when fully built-out, will consist of approximately 550 residential units (single- and multi-family). All of the units will be offered for sale or rent to buyers/renters who earn no more than 140% of the Kaua‘i median household income. The Project qualifies as an affordable housing project under HRS Chapter 201H, and is entitled to be exempt from State and County land use regulations and to proceed under the fast-tracking procedures provided under HRS Chapter 201H. See Exhibit 5.

The Project will also include a 3.1-acre community park, a community center, space for community gardens, vegetated drainage swales, landscaped areas, a water storage tank, and pathways (bike and pedestrian). See Exhibit 13-A, Exhibit 13-B.

The Project’s design and development is driven by the following goals:

- Affordable with a range of rental and homeownership opportunities for Kaua‘i’s ‘ohana.
- Green sustainable features that are environmentally responsible and lowers energy cost.
- Healthy lifestyles inspired through open spaces, walking paths, and recreational areas.
- Close-knit community where gathering places encourage social interaction.

See Exhibit 13-B. The Lima Ola Workforce Housing Development Master Plan (the “*Master Plan*”), attached as **Exhibit 13-A**, provides additional information regarding the development of the project. The Master Plan serves as a living document to guide decision-making and will be updated as development of the Project progresses. See, e.g., Exhibit 13-B.

**C. Impact of Project on Housing Needs – HAR § 15-15-50(c)(15)**

The underlying goal of the Project is to address the housing needs of low income, low-moderate income, and gap groups in the County, particularly in the south and west regions of the island. All of the residential units at Lima Ola will be offered for sale or rent to qualified residents whose incomes do not exceed 140% of the median income for the County. As discussed below in Section IV.D., the Project will serve to bridge the gap between the projected demand for more than 9,000 residential units and homes that are attainable by low- and moderate-income households.

**D. Need for Reclassification – HAR § 15-15-50(c)(16)**

Reclassification to the Urban District is necessary in order to develop Lima Ola, which has been designed to accommodate the acute need for affordable and workforce housing on the island of Kaua'i. There is a projected housing demand on Kaua'i during the time period of 2015-2025 for 5,287 residential units. Of that demand, 3,926 units are needed by households earning 80% or less of the Kaua'i median household income. See Exhibit 14 (Hawai'i Housing Planning Study 2016).

According to the Market Study, there is expected to be a demand for 9,038 additional housing units (mid-point) in the Lihu'e-Kekaha area between 2014 and 2040. A reasonable portion of households would consider 'Ele'ele as a potential housing location. Of this projected housing need, about 67 percent (6,056 units) will be for units priced to be affordable for households making 140 percent or less of the Kaua'i median income. See Exhibit 4 at Exhibit 15.

Excluding the Project, there are approximately 5,921 additional units proposed for the region, which is an insufficient supply to meet demand. Further, it is anticipated that more than a third of the planned units will be in developments oriented towards visitors and vacation/second-home buyers or with inventory at such high price points as to be unaffordable to almost all Kaua'i resident households. See Exhibit 4 at Exhibit 15.

More particularly, within the ‘Ele‘ele-Hanapēpē area, there is a demand for about 760 additional units by 2040. Without the Project, only 308 units are projected to be added to the ‘Ele‘ele-Hanapēpē area. The other projects that are expected to contribute new housing units include Kaua‘i Habitat for Humanity’s planned residential development with an additional 107 units to the southwest of the Petition Area and anticipated mixed-use development of a proposed 201 homes on lands owed by A&B Properties located south and southeast of the Petition Area. See Exhibit 4 at Exhibit 15.

**E. Incremental Development – HAR § 15-15-50(c)(20)**

The Project will be developed in multiple phases over the course of several decades. The Petitioner filed a Petition for Declaratory Order on December 7, 2016 to obtain a waiver of the time schedule and map requirements of HAR § 15-15-50(c)(20) for this Petition for District Boundary Amendment. This Commission granted the Petition for Declaratory Order on February 8, 2017, which is attached as **Exhibit 12**.

**F. Densities and Project Market – HAR § 15-15-50(c)(8)**

The intended market for the Project’s residential units are households earning between 80% and 140% of the Kaua‘i median household income. A variety of residential types will be offered for sale and rent at Lima Ola. These include single-family detached units, duplexes, and complex housing. Section 4 of the Master Plan provides artistic renderings of the various residential types. See Exhibit 13-A. The lot sizes will vary depending the residential type. See Exhibit 11-C. The project unit mix is subject to change based upon the current housing market needs and available financing. The Petitioner currently proposes densities of six (6) units per acre for single-family homes and ten (10) units per acre for multi-family units. See Exhibit 13-B at Exhibit 2.

The current estimated monthly rents and selling prices for the Lima Ola units and homes are as follows:

Proposed Lima Ola Unit Inventory Pricing (1)					
	Rental Units (2)		For Sale Units (3)		Total Units/% of Total
Type/Tenure	General (4)	Multifamily	Single Family		
Number of Units	215	210	125		550
Studios	64 \$976 to \$1,445				64 12%
One Bedroom	80 \$1,037 to \$1,540	84 \$172,000 to \$337,750			164 30%
Two Bedroom	59 \$1,235 to \$1,838	95 \$225,100 to \$424,000	13 \$266,500 to \$465,500		167 30%
Three Bedroom	12 \$1,413 to \$2,110	31 \$274,550 to \$504,350	75 \$295,300 to \$545,750		118 21%
Four Bedroom			37 \$358,500 to \$614,700		37 7%

(1) Petitioner commits to 100% of the units to be affordable as defined by Chapter 7A, Kauai County Code, as amended. Unit count among income groups is subject to change based on the most current housing market needs data and financing restrictions at the time of development.

(2) Monthly net rents, exclusive of utilities.

(3) Range shown for households between 80% -140% of median at a 30-year, fixed interest rate loan at 4.5%. Down payment of 5%. If CPR: \$200 monthly maintenance and association fees.

(4) Rental range shown for households between 80% -120% median.

The Market Study provides additional and supplemental information and detail. See Exhibit 4 at Exhibit 15.

As noted above, the Commission granted the Petition for Declaratory Order to waive the incremental development schedule. See Exhibit 12. The Project will be completed in multiple phases over several decades. The development timetable will vary depending upon a number of variables, including access to funding for affordable housing needs. The Lima Ola Workforce



Housing Infrastructure Delivery Plan sets forth the phases of development of the Project. See Exhibit 13-B at Exhibit 2.

V. **SUBJECT PROPERTY**

A. **Description of the Subject Property and Surrounding Areas – HAR § 15-15-50(c)(10)**

1. **Recent and Present Use**

The Petition Area was once used for growing sugarcane, but is now used as a commercial coffee farm. The County purchased the Petition Area in 2010 for the purpose of developing affordable housing. See Exhibit 1. Since that time, McBryde and Kauai Coffee have used the Petition Area for coffee farming under license and sublicense agreements with the County. Agriculture use under these agreements may continue until the County provides notice to the licensees that the County requires possession of the Petition Area to commence development of the Project. See Exhibits 2-A, 2-B.

A description of the surrounding area is provided in Section V.B.

2. **Soil Classification**

The Petition Area contains two types of soil within the Makaweli series. Makaweli silty clay loam, 0 to 6% slopes (MgB), is the predominate soil type at the Petition Area. MgB has moderate permeability, slow runoff and a slight erosion hazard. A small portion of the Petition Area includes Makaweli silty clay loam, 6-12% slopes (MgC). This soil type is similar to MgB, but has medium runoff potential and its erosion hazard is moderate. Additional information is provided in the FEA-FONSI at Section 4.2.1.1. See Exhibit 3.

3. **ALISH and Land Study Bureau Productivity Rating**

The land within the Petition Area is considered Prime agricultural land under the State Department of Agriculture's Agricultural Lands of Importance to the State of Hawai'i ("*ALISH*")

system. Soils within the Petition Area are classified as A and B pursuant to the University of Hawai‘i Land Study Bureau Detailed Land Classification A to E rating system, with A indicating the most productive soil. See Exhibit 13-B at Exhibit 3 (Agricultural Impact Assessment).

#### 4. **Flood and Drainage**

Median annual rainfall in the region where the Petition Area is located ranges between 29.5 to 34.4 inches per year, with the most rainfall between the months of October through March. According to Federal Emergency Management Agency records, the Petition Area is located within Flood Zone X, designated as “areas outside of the 0.2 annual chance floodplain.”

No permanent surface water bodies or natural wetlands are located within the Petition Area. However, a man-made irrigation ditch, Pump No. 1 Ditch, which was previously used for agricultural purposes, is located at the Petition Area. The United States Fish and Wildlife Service classifies Pump No. 1 Ditch as an intermittent, man-made riverine, which is occasionally flooded. Additional information regarding flooding and drainage is provided in the FEA-FONSI and the Preliminary Drainage Analysis. See Exhibit 3 at Section 4.2.4.1; Exhibit 13-B at Exhibit 5.

#### 5. **Topography**

The Petition Area slopes gently in the *makai* direction from north to south. The Petition Area ranges in elevation from approximately 275 to 175 feet above mean sea level, and has an average slope of four percent (4% grade). Additional information regarding the Petition Area’s topography is provided in the FEA-FONSI. See Exhibit 3 at Section 4.2.1.1.

#### **B. Location of Subject Property in Relation to Adjacent Land Use District – HAR § 15-15-50(c)(13)**

Development of residential communities has begun west of the Petition Area. A subdivision being developed by Kaua‘i Habitat for Humanity lies immediately southwest of the Petition Area. ‘Ele‘ele Nani, an established residential subdivision, is located across Kaumuali‘i

Highway from the Petition Area. See Exhibit 13-A at Chapter 3. These residential subdivisions are in the Urban District.

The Petition Area is located 0.8 miles from the ‘Ele‘ele Shopping Center, and 0.9 miles from the Port Allen Marina Center and from the Port Allen Industrial Center. Hanapēpē is located less than three miles away from the Petition Area, and Waimea is less than seven miles away. See Exhibit 4.

Lands immediately northeast of the Petition Area have been designated Important Agricultural Lands (“*IAL*”) and are located in the Agricultural District. The IAL boundary runs east to Wahiawa Gulch with the designation encompassing the gulch and lands *mauka* of Halewili Road. See Exhibit 13-A at Chapter 3.

Lands to the east and south of the Petition Area are located in the Agricultural District. Lands adjoining the Petition Area to the south and southeast are owned by A&B Properties, Inc. and are planned for mixed-use development. Although no specific plans have been announced, the parcel immediately south of the Petition Area has been identified as a future district park site. See Exhibits 13-A.

**VI. AVAILABILITY OF PUBLIC SERVICES AND FACILITIES – HAR § 15-15-50(c)(12)**

The Petition Area is currently used for agricultural production. Existing infrastructure in the Petition Area includes a private catchment water system for agricultural irrigation. There are no other utilities presently in the Petition Area.

**A. Schools**

Students living in the Petition Area would be served by three state Department of Education (“*DOE*”) schools: (1) ‘Ele‘ele Elementary School; (2) Waimea Canyon Middle School; and (3) Waimea High School:

- ‘Ele‘ele Elementary School is approximately one-half mile from the Petition Area and has a total enrollment of 503 students (Spring 2017). DOE estimates that Phase 1 of the Project may add an estimated 25 additional students. At full build-out, over the several decade timespan, DOE estimates an additional 77 students. At this time, there is adequate capacity to support the anticipated additional enrollment for Phase 1. DOE personnel indicate that the school may be at full capacity toward the later phases of the project. The Petitioner will continue to coordinate with DOE throughout the planning and development process to prevent a significant impact to the school. See Exhibit 3 at Section 4.3.4.2
- Waimea Canyon Middle School is approximately seven miles from the Petition Area and has a total enrollment 416 students (Spring 2017). At full build-out, DOE anticipates an additional 22 students attending Waimea Canyon Middle School. There is sufficient capacity to accommodate the additional students.
- Waimea High School is approximately six and one-half miles from the Petition Area and has a total enrollment of 575 students (Spring 2017). DOE has anticipated an additional 40 students in attendance at the full build-out of the Petition Area. There is sufficient capacity to accommodate the additional students.

See Exhibit 15-A. The principals of ‘Ele‘ele Elementary School, Waimea Canyon Middle School, and Waimea High School support the development of the Petition Area. See Exhibit 15-B. The Petitioner will continue to coordinate with the DOE throughout the planning and development process.

## **B. Parks**

The Petition Area is located on the western edge of the Kōloa District and the most eastern edge of the Waimea District. It is anticipated that residents of the Project will utilize parks and recreation facilities in both districts. The County Department of Parks and Recreation administers 16 neighborhood parks, 7 beach parks, 4 district parks, 2 passive parks, 1 cultural preserve, and 7 neighborhood centers, totaling almost 206 acres of park and recreational facilities within the Kōloa and Waimea Districts. See Parks and Recreation Master Plan, Exhibit 16.

Parks located nearby the Petition Area include: (1) 'Ele'ele Nani Park, which includes a 7.50 acre neighborhood park with playground equipment; (2) 'Ele'ele Park, which includes a 2.86 acre neighborhood park, multi-purpose field, comfort station, pavilion and basketball court; and (3) Hanapēpē Stadium, which provides active recreation facilities for a variety of sports. See Exhibit 16. A 3.1-acre community park and multi-use building will be developed and built within the Project during Phase 1. See Exhibits 12-C, 13-B at Exhibit 2.

## **C. Wastewater Systems**

The wastewater collection, treatment, and disposal system servicing the 'Ele'ele area is owned and operated by the County. Currently, the 'Ele'ele Wastewater Treatment Plant has a wastewater capacity of 0.8 million gallons per day ("**MGD**") with a current usage of approximately 0.4 MGD (fifty percent (50%) below capacity). See Exhibit 3 at Section 4.3.7.1. The Project would generate an average flow of 0.16 MGD, which is within the treatment capacity of the 'Ele'ele Wastewater Treatment Plant. See Letter from the County Department of Public Works, Wastewater Management Division, Exhibit 17. Accordingly, no expansion of the 'Ele'ele

Wastewater Treatment Plant would be needed upon the full-build out of the Project. See Exhibit 3 at Section 4.3.7.2; see also Exhibit 17.

A connection point with adequate capacity for the full build-out to the Petition Area is located within three hundred feet of the Project. Additional discussion of the wastewater system is addressed in the Preliminary Engineering Report, **Exhibit 4** at 10.

**D. Solid Waste Disposal**

The County Division of Solid Waste will provide residential solid waste services in accordance with current collection policies. The County has a variety of solid waste services that include a landfill, green waste diversion, refuse collections, refuse transfer stations, and recycling waste management programs. See Division of Solid Waste, Program Description, available at <http://www.kauai.gov/PublicWorks/SolidWaste>.

In addition, the Project intends to undertake proactive waste minimization strategies. These strategies would include a recyclables collection station within the community and the conversion of green waste into mulch that would be locally available for residents and community gardens. See Master Plan, Exhibit 13-A. The Project is expected to result in less than significant long-term impacts on the County solid waste collection and landfill. See Exhibit 3 at Section 4.2.5.2.

**E. Drainage**

Due to the construction of impervious surfaces in the Petition Area, development of the Project will include the construction of a surface water drainage system to collect storm water flow. Storm water would initially enter vegetated drainage swales located along internal roadways, which would provide natural filtering. Low-impact development and sustainable features, such as bioswales and rain gardens, will be incorporated into the design to provide storm water treatment and to reduce the quantity of runoff discharged from the site. The reduction in runoff generated

on-site will help reduce the size of the storm water drainage system. Water would then collect into subsurface pipe culverts, which would channel water to an on-site vegetated detention basin, which allows for further natural filtration, as well as groundwater recharge and particle deposition. The detention basin will be designed for a two-year, 24-hour storm recurrence interval. See Exhibit 3 at Section 4.3.7.2; **Exhibit 13-A** at Chapter 5; **Exhibit 13-B** at Exhibit 5 (Preliminary Drainage Analysis for the Project).

All features of the proposed surface water drainage system would be designed in accordance with the standards of the County Department of Public Works. With the proposed drainage system in place, the Project would have less than significant impacts on surface water at the Petition Area, as well as within the surrounding environment. See Exhibit 3 at Section 4.2.4.2.

**F. Water**

Water resource and distribution systems for the Petition Area are managed by the County Department of Water (“**DOW**”). The Water Master Plan for the Petition Area was completed in September 2015. See Exhibit 18.

The proposed development of the Petition Area will increase the water demand of the Hanapēpē-‘Ele‘ele Water System by 304,380 gallons per day (“**GPD**”) on an average day, or 456,570 GPD during maximum daily demand flows, and 913,140 GPD during peak hour demand flows at the full build-out of the Petition Area. See Exhibit 18.

DOW has conditionally approved water service for Phase 1 of the Project. See DOW letter, dated June 30, 2016, **Exhibit 19**. The Water Master Plan indicates that the current pumping capacity and source availability are adequate to accommodate the demand for Phase 1 of the development. Subsequent phases will be re-evaluated when planning for that phase commences. If additional sources are necessary at the time of re-evaluation, then the Petitioner will discuss the viable options with DOW. See Exhibit 18.

## **G. Transportation Systems**

### **1. Roadways**

The Petition Area is flanked by Kaumuali'i Highway, a State highway, to the northwest; and Halewili Road, a County road, to the south. The main entry point for Phase 1 of the Project will be Mahea Road, a County road connecting to Kaumuali'i Highway. See Exhibit 3 at Appendix E.

Kaumuali'i Highway is a two-lane State highway within 'Ele'ele. This roadway is the primary highway along the southern coast of the island of Kaua'i, roughly extending between Waimea to the west and Līhu'e to the east. See Exhibit 3 at Appendix E.

Halewili Road is a two-lane, east-west State highway leading into and out of western 'Ele'ele. It connects to Kaumuali'i Highway (Route 50) at each end – the western intersection is in 'Ele'ele, and the eastern intersection is just west of Kalaheo. See Exhibit 3 at Appendix E.

The Lima Ola Workforce Housing Project Traffic Impact Analysis Report ("*TIAR*") reviewed the four intersections located at Waialo-'Ele'ele/Kaumuali'i, Kaumuali'i/Halewili, Kaumuali'i/Laulea (South) - Mahea, and Kaumuali'i/Laulea (North). The TIAR was reviewed by the State Department of Transportation and its analyses were found satisfactory. See Exhibit 25.

The TIAR considered the traffic conditions with the Project at full build-out in 2040. Each of the intersections would operate at LOS F, both in its overall or side-street operations. LOS F represents highly congested traffic conditions that is commonly considered to result in unacceptable delay to drivers. See Exhibit 3 at Appendix E.

Accordingly, the TIAR recommended the following improvements for the intersections:

- Waialo-'Ele'ele/Kaumuali'i: (1) add a second westbound left-turn lane on Kaumuali'i Highway; (2) add a second southbound through lane on Waialo Road.



- Kaumuali‘i/Halewili: (1) add a southbound median acceleration lane along Kaumuali‘i Highway; (2) add a southbound left-turn lane along Kaumuali‘i at this intersection.
- Kaumuali‘i/Laulea (South) – Mahea: (1) signalize intersection; (2) lengthen the existing southbound Kaumuali‘i Highway left-turn lane to provide a minimum of 100 feet of vehicle storage.
- Kaumuali‘i/Laulea (North): (1) signalize intersection; (2) convert the existing northbound median acceleration lane on Kaumuali‘i Highway into a southbound left-turn lane.

These recommendations are suggested to occur at varying phases. Addition detail regarding the recommendations to traffic improvements are provided in **Exhibit 3** at Appendix E.

The Petitioner intends to implement the recommendations during the appropriate phase. See Exhibit 13-B at Exhibit 2. In addition, the Petitioner will complete a follow-up traffic study prior to each phase of development. See Exhibit 3 at Appendix E; **Exhibit 13-B** at Exhibit 2. The roadway improvements would alleviate the congestion and the long-term impacts to traffic would be considered less than significant. See Exhibit 3 at Section 4.3.3.2, Appendix E.

## 2. Transit Systems

The County Transportation Agency operates The Kaua‘i Bus, the public transit system within the County. Two bus routes traverse the study area: Routes 100 and 200. Route 100 travels eastbound between Kēkaha and Līhu‘e via ‘Ele‘ele, and Route 200 travels westbound along the same route. Both routes operate approximately each half-hour between 5:30 AM and 11:00 PM on weekdays. On weekends and holidays, both routes operate every two hours between 5:30 AM and 11:00 PM. See Exhibit 3 at Appendix E.

A bus stop is located less than one-half mile away from the Petition Area, on the west-bound lane of Kaumuali‘i Highway, and an additional bus stop on the east lane of Kaumuali‘i Highway will be installed during Phase 1 of the Project. The new bus stop will fill a major gap in transit service to the community, as there is currently no eastbound bus stop in ‘Ele‘ele. The new bus stop would also facilitate access to transit for residents within the Petition Area. See Exhibit 3 at Appendix E.

#### **H. Public Utilities**

The existing Kaua‘i Island Utility Cooperative (“**KIUC**”) electrical distribution service will be extended into the Project. The estimated electrical demand for the Project based on the latest development design is 1,150 kilowatts, or 843,000 kilowatt-hour/month. Electrical service will be extended from overhead lines to underground conduits into the Petition Area. Discussions with key KIUC personnel suggest that this electrical demand will not impact the existing KIUC grid. See Exhibit 3 at Section 4.3.7.2; Exhibit 4 at 10 (Preliminary Engineering Report).

Hawaiian Telcom telephone service and Oceanic Time Warner cable television service will follow KIUC’s overhead lines into underground conduits upon entering the Project. See Exhibit 3 at Section 4.3.7.2.

#### **I. Police and Fire Protection**

The Kaua‘i Police Department (“**KPD**”) serves as the primary law enforcement agency for ‘Ele‘ele and the entire island of Kaua‘i. The Petition Area is in the Waimea District, which provides police services from the Halfway Bridge on Kaumuali‘i Highway to the west side of the island (Polihale), including Kōke‘e State Park. Approximately seven miles to the west of the Petition Area, in the town of Waimea, KPD operates a sub-station. Another sub-station is located approximately 11 miles to the east in the Kōloa District. See Exhibit 3 at Section 4.3.7.2.

KPD recommends that at full build-out a 7,000 square foot sub-station and six police officers be added to the police force. See Exhibit 4 at Exhibit 8. The Petitioner will communicate the Project's proposed phase density to the County administration and KPD prior to development of subsequent phases. Because the Project would be located within close proximity of existing towns that are currently patrolled ('Ele'ele and Hanapēpē), it would not represent a significant impact to existing law enforcement services during the first phase of the Project. See Exhibit 3 at Section 4.3.7.2.

Fire service is provided by the Kaua'i Fire Department ("**KFD**"). The fire station located nearest to the Petition Area is the Hanapēpē Fire Station, which is approximately one mile west of the Petition Area. Because the Project will generally conform to county fire protection standards, including the installation of fire hydrants and smoke alarms, and is in close proximity to an existing fire station, it would not represent a significant impact to existing fire protection services. See Exhibit 3 at Section 4.3.7.2.

**J. Civil Defense**

The closest County evacuation shelter to the Petition Area is located at 'Ele'ele Elementary School, which has a capacity of 1,468 persons. Due to the safer standards of the current building code and the location of the Petition Area outside of the flood zone and tsunami evacuation zone, the Kaua'i Emergency Management Agency ("**KEMA**"), which is responsible for civil defense on the island of Kaua'i, intends to advise residents of the Project to remain in their units in the event of a natural disaster. See Exhibit 20.

The 'Ele'ele Elementary School shelter is considered to be a "Shelter of Last Resort" by KEMA. This evacuation shelter is intended to be used only by residents living in homes with older construction, or who would otherwise remain in an inundation area. Residents and visitors should

retreat to this evacuation shelter only if they do not have safer options, such as shelter-in-place practices. See Exhibit 20.

KEMA does not anticipate that the Project will lead to overcrowding at this shelter. The County is also considering KEMA's recommendation to construct the proposed community center in a manner that would allow it to serve as an evacuation shelter. See Exhibit 20. Although Project residents will be advised to remain in their units, there is a general need in the County for additional evacuation shelters.

**K. Emergency Medical Services and Medical Facilities**

The primary medical facility for the region is Kaua'i Veterans Memorial Hospital ("KVMH"), which is located in Waimea, approximately seven miles from the Petition Area. KVMH is a full-service critical access hospital that includes 24-hour emergency services, a family birth center, outpatient clinics, imaging, surgery, orthopedic, rehabilitation therapies, skilled nursing, and intermediate and long-term, acute and intensive care. The Kawaiola Medical Office adjacent to KVMH houses a dialysis center, retail pharmacy, and outpatient clinical labs services.

In addition, the KVMH Port Allen Clinic is located less than one mile from the Petition Area and includes an outpatient clinic and rehabilitation therapies. A pharmacy is also located in the 'Ele'ele Shopping Center, less than one mile from the Petition Area. The Project is not anticipated to adversely impact KVMH or the KVMH Port Allen Clinic. See Exhibit 3 at Appendix H.

**VII. ASSESSMENTS OF ENVIRONMENTAL IMPACTS - HAR § 15-15-50(c)(11)**

**A. Environmental Resources**

The proposed development of the Petition Area is not expected to cause significant air quality or noise impacts. Air quality and noise impacts occurring during the construction process

will be addressed through best management practices, monitoring, and compliance to applicable regulations.

Direct long-term impacts to air quality due to increased vehicular traffic are not expected to be significant. The Project would result in increased annual emissions. However, worst-case projected concentrations should remain well within both the State and national ambient air quality standards. Direct long-term impacts to air quality would be less than significant. See **Exhibit 3** at Section 4.2.6.2 and Appendix D (Air Quality Study).

Upon completion, the Project would have less than significant long-term impacts to noise receptors. In order to comply with noise rules and to prevent noise impacts to residences, the Project would incorporate design considerations to control the noise emanating from stationary mechanical sources. Design features that could be incorporated into the Project include sufficient spacing between noise sources and receptors; and installing controls such as mufflers, silencers, acoustical enclosures, or noise barrier walls. See **Exhibit 3** at Appendix F (Environmental Noise Assessment Report).

Noise from future traffic volume increases due to the development of the Project would also be less than significant. The greatest increase of noise levels to the surrounding community is two Db for the homes adjacent to Mahea Road. However, this increase is considered less than the threshold of human perception. See **Exhibit 3** at Appendix F.

## **B. Agriculture**

The Project will not significantly impact agricultural resources. Short-term impacts include the planting of new coffee trees and installing drip irrigation in new fields. Kauai Coffee intends to plant additional plantings within existing fields to improve overall production per acre on the farm as a whole. Further, the crop variety grown in the Petition Area is yellow catuai, a

coffee variety that Kauai Coffee plans to reduce production of, and to instead produce higher value coffees. See Exhibit 13-B at Exhibit 3.

There is an adequate amount of available agricultural lands surrounding the Petition Area and within the County. Kauai Coffee has held a license to use the Petition Area for agricultural use since the parcel was purchased by the Petitioner. Of the 3,000 plus acres currently being utilized for coffee farming by Kauai Coffee, the approximately 75 acres represents less than three percent (3%) of the total area farmed. Blocks of farmland, in greater acreage than the Petition Area, and within the vicinity of the currently farmed area, lay fallow and are available for Kauai Coffee's farming use. See Exhibit 13-B at Exhibit 3.

In addition, the Project may benefit Kauai Coffee and other agricultural businesses. The lack of affordable housing has made it more difficult for Kauai Coffee to recruit and retain employees. Development of County workforce housing at Lima Ola may help secure a portion of the labor pool needed to keep Kauai Coffee operational. See Exhibit 13-B at Exhibit 3.

The Important Agricultural Lands Study for the County of Kaua'i identified approximately 53,000 acres on the island as meeting all criteria to meet Important Agricultural Lands. See Exhibit 13-B at Exhibit 3; **Exhibit 21**. In regards to plantation agriculture, the acreage to be disrupted by the Lima Ola project will be too small to negatively affect current or realistic future coffee plantation operations. There is ample acreage of fallow land in the IAL area to make up for the area loss due to the development of the Lima Ola project area. Moreover, the Petition Area has not been classified as Important Agricultural Lands, as defined by the State Land Evaluation and Site Assessment Commission. See Exhibit 13-B at Exhibit 3.

### **C. Recreational**

The Petition Area is currently used for commercial agricultural purposes. As a result, public access to the Petition Area is restricted and the site has no recreational use at this time. The

recreational activities located closest to the Petition Area are those of the ‘Ele‘ele Nani community across Kaumuali‘i Highway. Considering the physical separation from the Petition Area, recreational activities in the ‘Ele‘ele Nani community are not anticipated to be impacted. Therefore, short-term recreational use in the Petition Area would not be impacted by construction of the Project. See Exhibit 3 at Section 4.3.5.2.

Due to the Project, there would be beneficial long-term impacts to recreational use in the Petition Area. As noted in the Master Plan, the Project will include a “network of shared use paths, open play spaces, passive leisure parks and community gardens” for residents and visitors to enjoy. See Exhibit 13-A. Development of the Project will develop and increase recreational resources in the Petition Area.

**D. Cultural Resources**

The Hawai‘i Supreme Court in Ka Pa‘akai O Ka‘Aina v. Land Use Commission, State of Hawai‘i, 94 Hawai‘i 31, 7 P.3d 1068 (2000), as amended (Jan. 18, 2001), provided an analytical framework in an effort to effectuate the State’s obligation to protect native Hawaiian customary and traditional practices while reasonably accommodating competing private interests. In order to fulfill its duty to preserve and protect customary and traditional native Hawaiian rights to the extent feasible, the Commission must—at a minimum—make specific findings and conclusions as to the following:

- (1) The identity and scope of “valued cultural, historical, or natural resources” in the petition area, including the extent to which traditional and customary native Hawaiian rights are exercised in the petition area;
- (2) The extent to which those resources - including traditional and customary native Hawaiian rights - will be affected or impaired by the proposed action; and

- (3) The feasible action, if any, to be taken by the Commission to reasonably protect native Hawaiian rights if they are found to exist.

See Ka Pa‘akai, 94 Hawai‘i at 47, 7 P.3d at 1084.

A Cultural Impact Assessment Notice was published in 2013 requesting information regarding cultural resources or activities in the Petition Area. A single response was received from Sabra Kauka, Department of Education, Hawaiian Studies Coordinator, Kaua‘i Complex. Mrs. Kauka requested information on the Petition Area from Kupuna Janet Kahalekomo, the oldest link to the Hanapēpē area in the Hawaiian Studies Kūpuna Program. Kupuna Kahalekomo said that the area has been in either sugarcane or coffee production during her lifetime, and that any cultural sites that may have existed are no longer present. See Exhibit 3 at Appendix G-1.

In June 2014, a Cultural Impact Assessment was completed for the Petition Area by Scientific Consultant Services, Inc. (“SCS”). The only record of an archaeological site in the Petition Area is a single, historic plantation-era site, designated at State Site 50-30-09-2219, Pump No. 1 Ditch. See Exhibit 3 at Appendix G-1.

The Cultural Impact Assessment determined that the Petition Area has not been, and is not currently, used for traditional cultural purposes and there are no “valued cultural, historical, or natural resources” in the Petition Area. Thus, it is reasonable to conclude that the exercise of native Hawaiian rights, or any ethnic group, related to traditional cultural practices will not be impacted by the development of the Project. See Exhibit 3 at Appendix G-1.

**E. Historic**

The Archaeological Inventory Survey identified a single, historic plantation-era site, designated as State Site Number 50-30-09-2219, Pump No. 1 Ditch. The Project may impact Pump No. 1 Ditch, but the site has been documented, plotted on maps, photographed, and traced via photograph from Google Earth. The site has also been described in historic pamphlets and books.



Because the feature has been properly documented according to state regulations, and there are other examples of similar features in the area, alteration of Pump No. 1 Ditch due to development of the Project would not represent a significant impact. **Exhibit 3** at Appendix G-2.

No pre-contact historic properties were found at the Petition Area. SCS recommends no further historic preservation work is necessary in the Petition Area. **Exhibit 3** at Appendix G-2.

**F. Scenic**

The Petition Area is not located in a sensitive visual setting. Rather, the surrounding area is moderately urbanized and there is currently no public access to the Petition Area. The residential units will adhere to county height restrictions, and a view corridor from the mountains to the sea would be maintained, thus preserving the existing visual assets of the Petition Area. The Project would not substantially affect the visual aesthetics of the area. **See Exhibit 3** at Section 4.3.6.2.

The Project would be compatible with the County General Plan (2000), which calls for the use of green open space, small, low buildings, and the presence of natural vegetation along roads. **See Exhibit 22.**

**G. Flora and Fauna**

A terrestrial flora and fauna survey was conducted by SWCA Environmental Consultants on September 25-26, 2013 to document the existing biological resources that may be impacted by the Project. No state or federally-listed threatened, endangered, or candidate plant species, or rare native Hawaiian plant species were observed within the surveyed area, and no designated critical plant habitat occurs within the area. Of the 66 plant species observed at the Petition Area, only two species, *'uhaloa (Waltheria indica)* and *moa (Psilotum nudum)* are native to the Hawaiian Islands. **See Exhibit 3** at Appendix C (Biological Survey).

Protected Hawaiian bird species may traverse the Petition Area; however, the Petition Area does not include a designated critical habitat for any protected species. **See Exhibit 3** at 4.2.3.2.

Thirteen (13) bird species were documented during the survey. These species are typically found in agricultural areas, and included one migrant shorebird species: the Pacific golden plover (*Pluvialis fulva*) which was primarily observed on roads. Although no owls were seen or heard during the survey, the native Hawaiian short-eared owl or *pueo* (*Asio flammeus sandwichensis*) and the introduced barn owl (*Tyto alba*) may use the project area for hunting and roosting. Seabirds, especially the endangered Hawaiian petrel (*Pterodroma sandwichensis*) and threatened Newell's shearwater (*Puffinis auricularis newelli*), may fly over the Petition Area at night while traveling between their upland nesting sites to the ocean. See Exhibit 3 at Appendix C.

Six bat detectors were deployed in order to detect the presence of the endangered Hawaiian hoary bat (*Lasiurus cinereus semotus*). Four of the six detectors detected multiple bat calls in the Petition Area. Therefore, the Hawaiian hoary bat is present at the Petition Area. See Exhibit 3 at Appendix C.

Construction activities planned for the Petition Area may impact the Hawaiian hoary bat, the Hawaiian petrel, and the Newell's shearwater. The Petitioner will consider applying the control measures proposed by the U.S. Fish and Wildlife Service to minimize or avoid possible impacts to the endangered and threatened species. See Exhibit 3 at 4.2.3.2.

#### **H. Groundwater**

The northwestern portion of the Petition Area is located in the Hanapēpē aquifer system of the Waimea aquifer sector and the southern portion is located in the Kōloa aquifer system of the Līhu'e aquifer sector. The Project would cause less than significant impacts to groundwater. Given the estimated depth to groundwater of approximately 100 feet below the surface, groundwater is not anticipated to be encountered. See Exhibit 3 at Section 4.2.4.1.

The underlying aquifers would not be adversely impacted, such as by water level drawdown, due to the additional demand need caused by the Project. The proposed housing units

of the Project would be serviced by potable water provided by DOW, which regularly monitors water quality parameters to ensure adherence to all state and federal standards. See Exhibit 3 at Section 4.2.4.1; **Exhibit 18** (Water Master Plan).

**VIII. ECONOMIC IMPACTS OF PROPOSED USE – HAR § 15-15-50(c)(14)**

The Project is intended to provide affordable housing for Kaua‘i’s workforce, particularly those with employment in the south and west regions of Kaua‘i. Given the strong demand for housing, the Project will help to provide a more balanced housing market. As noted above, there is a demand for approximately 760 additional units by 2040 in the ‘Ele‘ele-Hanapēpē area. See Exhibit 4 at Exhibit 15; see also Exhibit 14. In addition, the influx of new residents is expected to bring greater economic vitality to the region.

Further, construction activities would result in the short- and long-term creation of jobs and materials spending, which would continue until full build-out of the project is completed in several decades. The creation of construction jobs would help to reduce the higher than national and State average unemployment in the census tract area. As a result, the short- and long-term socio-economic impacts of the Project would be beneficial. See Exhibit 3 at Section 4.3.4.2.

**A. Financial Condition – HAR § 15-15-50(c)(9)**

Petitioner is acting through its Housing Agency, an agency of the County of Kaua‘i. Accordingly, Petitioner is exempt from this requirement.

**IX. CONFORMITY OF LIMA OLA PROJECT TO OBJECTIVES AND POLICIES OF THE HAWAI‘I STATE PLAN – HAR § 15-15-50(c)(17)**

**A. Conformity to Hawai‘i State Plan**

The purpose of the Hawai‘i State Plan, HRS Chapter 226, is to serve as a guide for the future long-range development of the State; identify the goals, objectives, policies, and priorities for the State; provide a basis for determining priorities and allocating limited resources; and

establish a system for plan formulation and program coordination to provide for the integration of all major state and county activities. See HRS § 226-1. To achieve this purpose, the Hawai‘i State Plan sets forth objectives and policies to guide future development in Hawai‘i. The Project conforms to the following objectives and policies:

HRS § 226-5, Objectives and Policies for Population

- (b)(1) Manage population growth statewide in a manner that provides increased opportunities for Hawai‘i’s people to pursue their physical, social, and economic aspirations while recognizing the unique needs of each county.
- (b)(2) Encourage an increase in economic activities and employment opportunities on the neighbor islands consistent with community needs and desires.
- (b)(3) Promote increased opportunities for Hawai‘i’s people to pursue their socio-economic aspirations throughout the islands.
- (b)(7) Plan the development and availability of land and water resources in a coordinated manner so as to provide for the desired levels of growth in each geographic area.

HRS § 226-6, Objectives and Policies for the Economy—In General

- (b)(9) Strive to achieve a level of construction activity responsive to, and consistent with, state growth objectives.

HRS § 226-11, Objectives and Policies for the Physical Environment—Land-based, Shoreline, and Marine Resources

- (a)(1) Prudent use of Hawai‘i’s land-based, shoreline, and marine resources.
- (b)(3) Take into account the physical attributes of areas when planning and designing activities and facilities.

HRS § 226-12, Objective and Policies for the Physical Environment—Scenic, Natural Beauty, and Historic Resources

- (b)(5) Encourage the design of developments and activities that complement the natural beauty of the islands.

HRS § 226-13, Objective and Policies for the Physical Environment—Land, Air, and Water Quality

- (b)(2) Promote the proper management of Hawai‘i’s land and water resources.
- (b)(6) Encourage design and construction practices that enhance the physical qualities of Hawai‘i’s communities.
- (b)(7) Encourage urban developments in close proximity to existing services and facilities.

HRS § 226-14, Objective and Policies for Facility Systems—In General

- (b)(1) Accommodate the needs of Hawai‘i’s people through coordination of facility systems and capital improvement priorities in consonance with state and county plans.
- (b)(2) Encourage flexibility in the design and development of facility systems to promote prudent use of resources and accommodate changing public demands and priorities.

- (b)(3) Ensure that required facility systems can be supported within resource capacities and at reasonable cost to the user.
- (b)(4) Pursue alternative methods of financing programs and projects and cost-saving techniques in the planning, construction, and maintenance of facility systems.

HRS § 226-15, Objective and Policies for Facility Systems—Solid and Liquid Wastes

- (a)(1) Maintenance of basic public health and sanitation standards relating to treatment and disposal of solid and liquid wastes.
- (a)(2) Provision of adequate sewerage facilities for physical and economic activities that alleviate problems in housing, employment, mobility, and other areas.
- (b)(2) Promote re-use and recycling to reduce solid and liquid wastes and employ a conservation ethic.

HRS § 226-16, Objective and Policies for Facility Systems—Water

- (b)(1) Coordinate development of land use activities with existing and potential water supply.
- (b)(3) Reclaim and encourage the productive use of runoff water and wastewater discharges.

HRS § 226-18, Objective and Policies for Facility Systems—Energy

- (b)(3) Greater diversification of energy generation in the face of threats to Hawai‘i’s energy supplies and systems;
- (b)(4) Reduction, avoidance, or sequestration of greenhouse gas emissions from energy supply and use; and
- (c)(2) Ensure that the combination of energy supplies and energy-saving systems is sufficient to support the demands of growth;

HRS § 226-19, Objective and Policies for Socio-Cultural Advancement—Housing

- (a)(1) Greater opportunities for Hawai‘i’s people to secure reasonably priced, safe, sanitary, and livable homes, located in suitable environments that satisfactorily accommodate the needs and desires of families and individuals, through collaboration and cooperation between government and nonprofit and for-profit developers to ensure that more affordable housing is made available to very low-, low- and moderate-income segments of Hawai‘i’s population.
- (a)(2) The orderly development of residential areas sensitive to community needs and other land uses.
- (a)(3) The development and provision of affordable rental housing by the State to meet the housing needs of Hawai‘i’s people.
- (b)(1) Effectively accommodate the housing needs of Hawai‘i’s people.
- (b)(2) Stimulate and promote feasible approaches that increase housing choices for low-income, moderate-income, and gap-group households.
- (b)(3) Increase homeownership and rental opportunities and choices in terms of quality, location, cost, densities, style, and size of housing.

- (b)(5) Promote design and location of housing developments taking into account the physical setting, accessibility to public facilities and services, and other concerns of existing communities and surrounding areas.
- (b)(7) Foster a variety of lifestyles traditional to Hawai‘i through the design and maintenance of neighborhoods that reflect the culture and values of the community.

HRS § 226-20, Objective and Policies for Socio-Cultural Advancement—Health

- (a)(2) Maintenance of sanitary and environmentally healthful conditions in Hawai‘i’s communities.

HRS § 226-21, Objective and Policies for Socio-Cultural Advancement—Education

- (b)(2) Ensure the provision of adequate and accessible educational services and facilities that are designed to meet individual and community needs.

HRS § 226-23, Objective and Policies for Socio-Cultural Advancement—Leisure

- (b)(3) Enhance the enjoyment of recreational experiences through safety and security measures, educational opportunities, and improved facility design and maintenance.

HRS § 226-24, Objective and Policies for Socio-Cultural Advancement—Individual Rights and Personal Well-being

- (b)(4) Ensure equal opportunities for individual participation in society.

HRS § 226-25, Objective and Policies for Socio-Cultural Advancement—Culture

- (b)(4) Encourage the essence of the aloha spirit in people’s daily activities to promote harmonious relationships among Hawai‘i’s people and visitors.

HRS § 226-26, Objective and Policies for Socio-Cultural Advancement—Public Safety

- (a)(1) Assurance of public safety and adequate protection of life and property for all people.
- (a)(2) Optimum organizational readiness and capability in all phases of emergency management to maintain the strength, resources, and social and economic well-being of the community in the event of civil disruptions, wars, natural disasters, and other major disturbances.
- (a)(3) Promotion of a sense of community responsibility for the welfare and safety of Hawai‘i’s people.

The Hawai‘i State Plan also sets forth Priority Guidelines to improve the quality of life for Hawai‘i’s present and future population. The Project conforms to and supports following Priority Guidelines:

HRS § 226-103, Economic Priority Guidelines

- (a)(5) Streamline the processes for building and development permit and review and telecommunication infrastructure installation approval and eliminate or consolidate other burdensome or duplicative governmental requirements imposed on business, where

scientific evidence indicates that public health, safety, and welfare would not be adversely affected.

HRS § 226-104, Population Growth and Land Resources Priority Guidelines

- (a)(1) Encourage planning and resource management to insure that population growth rates throughout the State are consistent with available and planned resource capacities and reflect the needs and desires of Hawai'i's people.
- (a)(3) Ensure that adequate support services and facilities are provided to accommodate the desired distribution of future growth throughout the State.
- (b)(2) Make available marginal or nonessential agricultural lands for appropriate urban uses while maintaining agricultural lands of importance in the agricultural district.
- (b)(12) Utilize Hawai'i's limited land resources wisely, providing adequate land to accommodate projected population and economic growth needs while ensuring the protection of the environment and the availability of the shoreline, conservation lands, and other limited resources for future generations.

HRS § 226-106, Affordable Housing

- (1) Seek to use marginal or nonessential agricultural land and public land to meet housing needs of low- and moderate-income and gap-group households.
- (2) Encourage the use of alternative construction and development methods as a means of reducing production costs.
- (7) Encourage improved coordination between various agencies and levels of government to deal with housing policies and regulations.
- (8) Give higher priority to the provision of quality housing that is affordable for Hawai'i's residents and less priority to development of housing intended primarily for individuals outside of Hawai'i.

HRS § 226-108, Sustainability

- (2) Encourage planning that respects and promotes living within the natural resources and limits of the State.
- (5) Promote decisions based on meeting the needs of the present without compromising the needs of future generations.

**B. Conformity to State Functional Plans**

The State has also prepared functional plans to define and implement statewide goals, objectives, policies, and priority guidelines. HRS § 226-56. This boundary amendment request is consistent with the objectives of the following State Functional Plans:

State Employment Functional Plan

Policy C(2) of the State Employment Functional Plan supports increasing the pool of resident jobseekers. As the Plan explains, one strategy to increase the labor pool is through the

provision of adequate and affordable housing. Action C(2)(f) states that the “State Land Use Commission and counties [should] impose realistic and fair employee housing requirements on projects seeking land use re-designations, general or development plan amendments, rezoning, SMA permits, and building permits.” Here, the Project is intended to be a workforce housing development, which will provide affordable housing for Kaua‘i residents.

#### State Housing Functional Plan

The Project, as an affordable housing project with rental and for-sale housing units, supports the following State Housing Functional Plan objectives and supporting policies:

- Homeownership for at least sixty percent, or roughly 248,500 households by the year 2000. Supporting policies of this objective include “[d]irect[ing] Federal, State and county resources and efforts toward the development of affordable for-sale housing units.”
- Sufficient amount of affordable rental housing units by the year 2000 so as to increase the State’s rental vacancy rate to at least 3%. This objective is supported by the policy to “[d]irect State, county and federal resources toward the financing and development of rental housing projects.”
- Acquire and designate lands suitable for housing development in sufficient amount to locate the deficit in housing units by the year 2000. The supporting policy suggests the promotion of “design and location of housing developments taking into account the physical setting, accessibility to public facilities and services, employment and other concerns of existing communities and surrounding areas.”

#### State Recreational Functional Plan



One of the objectives of the State Recreational Functional Plan is to “improve and expand the provision of recreation facilities in urban areas and local communities.” Implementing actions of this objective include developing bikeways in residential areas, providing additional playing fields and upgrading existing fields for youth and adult sports leagues, and providing urban trails and walkways. The Project will include a permanent greenway system that will extend through the development, and will include a network of shared use paths, open play spaces, passive leisure parks, and community gardens. The paths and streets will be pedestrian- and bike-friendly.

**X. CONFORMITY OF LIMA OLA PROJECT WITH HAWAII COASTAL ZONE MANAGEMENT PROGRAM – HAR § 15-15-50(c)(18)**

The island of Kaua‘i falls within the coastal zone and is therefore under the jurisdiction of the Coastal Zone Management Program, HRS Chapter 205A. The program is administered by the State Office of Planning and is intended to provide for the effective management, beneficial use, protection, and development of the coastal zone. Development of the Project will not impact coastal recreation opportunities, impede economic uses, increase coastal hazards, or conflict with the objectives of the Coastal Zone Management Program. Analysis of historic and scenic resources, and the flora and fauna in the region, is provided in Section VII. In accordance with the objectives of managing development and public participation, the public has been invited to participate in review of the Project. See **Exhibit 3** at Appendix B, **Exhibit 4** at Exhibit 8, **Exhibit 8**, and **Exhibit 25**. Moreover, the Petition Area is not located on the shoreline or within the County Special Management Area. Accordingly, the Project complies with HRS Chapter 205A.

**XI. ASSESSMENT OF CONFORMITY OF LIMA OLA PROJECT TO COUNTY GENERAL PLAN – HAR § 15-15-50(c)(19)**

**C. Conformity with County of Kaua‘i General Plan (2000)**

The County General Plan (2000) (the “*General Plan*”) guides the location and character of new development through graphic and textual policy. See **Exhibit 22**. The General Plan was

approved in 2000. Section 6.5 describes the land use policy and vision for ‘Ele‘ele. The agricultural zoned land located east of ‘Ele‘ele was not designated for future residential development in the General Plan. The Kauai County Council approved the requested exemption to amend the project area map designation pursuant to HRS § 201H-38. See Exhibit 5.

The Project supports the following policies of the General Plan:

- 5.1.1(b) Promote compact urban settlements in order to limit public service costs and to preserve open space.
- 5.1.2(d) In the outlying West Side and North Shore districts, plan for additional residential use to meet regional demands for housing.
- 5.1.2(e) Expansion contiguous to an existing town or residential community is preferred over a new residential community.
- 8.1.10(a) Increase the supply of affordable rental housing, as indicated by market conditions.
- 8.1.10(b) Increase opportunities for moderate- and low-income households to become homeowners. Work from the bottom up, serving the 35 percent of residents whose income is 80 percent of the median or less. The intent is to move families out of expensive rental subsidy programs into homeownership, developing housing at a very low cost through self-help programs and reduced-rate mortgage financing.
- 8.1.10(c) Acquire and bank land and infrastructure improvements for future housing development.

See Exhibit 22.

**D. Conformity with County of Kaua‘i Draft General Plan (2020)**

The County Planning Department began updating the General Plan in 2015 and a draft is undergoing Planning Commission and County Council review. The draft Future Land Use Map designates Lima Ola as a “residential community” and sets policy supporting the eastward expansion of Port Allen and ‘Ele‘ele. See Exhibit 23.

The draft County General Plan (2020) (the “*Draft General Plan*”) indicates that the County is heavily invested in the provision of affordable housing and emphasizes that Kaua‘i is in the midst of a housing crisis. As the Draft General Plan explains, “[t]he majority of new and available housing is not affordable to the average working household. This has also led to a sense that development contributes to inequality by serving off-island interests.” See Exhibit 23.

The Draft General Plan sets forth twenty (20) policies to guide growth on Kaua‘i; the following nine (9) policies are supported by the Project:

1. **Manage Growth to Preserve Rural Character:** Preserve Kaua‘i’s rural character by limiting the supply of developable land to an amount adequate for future needs. Prohibit development not adjacent to towns.
2. **Provide Local Housing:** Increase the amount of housing available for local households by focusing infrastructure improvements in growth areas. Eliminate onerous regulatory barriers and form active public-private partnerships.
3. **Recognize the Identity of Kaua‘i’s Individual Towns and Districts:** Kaua‘i’s towns and planning districts are distinct, each with its own character, opportunities, and needs.
4. **Design Healthy and Complete Neighborhoods:** Ensure new and existing neighborhoods have safe roads and functional parks, as well as access to jobs, commerce, transit, and public services.
14. **Complete Kaua‘i’s Shift to Clean Energy:** Mitigate Climate Change and reduce system-wide carbon emissions by at least 80% by 2050 through deep reductions in energy use and by transforming electricity, transportation, and infrastructure systems toward the use of clean energy.
18. **Nurture Our Keiki:** Value youth as Kaua‘i’s most treasured resource. Provide them with safe communities, great schools and facilities, and financially sustainable job, housing, and transportation opportunities so they are able to seek livelihoods on Kaua‘i.
20. **Communicate with Aloha:** Kaua‘i’s residents care about planning and decision-making. Government must share information, encourage input, improve public processes, and be responsive.

See Exhibit 23 at Section 1.3.

In regards to the Hanapēpē and ‘Ele‘ele area, the Draft General Plan states that ‘Ele‘ele is suited for incremental change and there is opportunity for Port Allen and the ‘Ele‘ele Shopping Center to connect to new neighborhoods, such as Lima Ola. See Exhibit 23 at Section 4.4.2. Moreover, Lima Ola is specifically discussed with approval in the Draft General Plan. See Exhibit 23 at Section 2.II.A.4.a.

**B. Conformity with Hanapēpē - ‘Ele‘ele Community Development Plan**

The Project conforms to the vision of the Hanapēpē-‘Ele‘ele Community Development Plan (December 1974) (the “*Community Plan*”). See Exhibit 24. The Community Plan discusses planning for housing in the area: “Residential development in the study area should occur on State lands or in other areas such as that proposed by McBryde (A&B) where economic hardship is not created by removal of cane lands.” See Exhibit 24 at Section 5.

The Petition Area is located on former cane lands purchased from McBryde, but is now utilized by Kauai Coffee under a sublicense agreement with the County. See Exhibit 2-B. Kauai Coffee is aware of the Project and has no objections to the re-zoning of the Petition Area. See Exhibit 25. A change of land use at the Petition Area would not significantly impact agricultural production because Kauai Coffee has sufficient access to alternate land in the area. See Exhibit 13-B at Exhibit 3. In addition, the approximately 75-acre Petition Area constitutes less than three percent (3%) of the total area farmed by Kauai Coffee. See Exhibit 13-B at Exhibit 3. Therefore, the Project is congruent with the Hanapēpē-‘Ele‘ele Community Development Plan.

**C. Conformity with County Zoning Designations**

The Petition Area is currently zoned for agricultural use under County zoning regulations. The County has identified the Petition Area as the most suitable location for the proposed

affordable housing community, and has allocated sufficient alternative lands in the area, as well as additional lands in the County, for agricultural use. See Exhibit 3 at Section 5.3.1.2.

The Petitioner received an exemption from Section 8-7.1 of the Kaua'i County Code, Agricultural Districts, pursuant to HRS § 201H-38, to permit the development and use of the parcels for single-family and multi-family residential purposes, including supporting infrastructure requirements. See Exhibit 5.

**XII. CONFORMITY OF THE RECLASSIFICATION TO THE STANDARDS FOR DETERMINING URBAN DISTRICT BOUNDARIES**

HAR § 15-15-18 sets forth the standards for determining Urban District boundaries. The proposed reclassification conforms to those standards, as described below:

**A. HAR § 15-15-18(1)**

The Project will be characterized by “city-like” concentrations of people, structures, streets, and urban levels of services. The Project will support 550 households, ranging from keiki to kūpuna. A community center will be located at the center of the development, and will be used for community meetings, enrichment classes, and social gatherings. Other potential activities located at the community center would include self-service postal services and a drop-off recycling station. See Exhibit 13-A at Chapter 4.

As part of the Project, the intersections of Mahea Road/Kaumuali'i Highway, Laulea Street/Kaumuali'i Highway, and a connection to Halewili Road are expected to be signalized. Mahea Road will be extended as a major access road for the Project. The Project is expected to have three levels of roads: Major Perimeter Streets, Collector Streets, and Minor Streets. See Exhibit 13-A at Chapter 4.

**B. HAR § 15-15-18(2)**

The Petition Area is located approximately one mile from key community facilities in the 'Ele'ele/Port Allen area. 'Ele'ele's main commercial district is located at the intersection of Kaumuali'i Highway and Waialo Road. The shopping area contains a supermarket, hardware store, specialty stores, and restaurants. The 'Ele'ele Post Office is also located within the commercial district. See Exhibit 13-A at Chapter 3.

Another commercial district is located in nearby Port Allen at the *makai* portion of Waialo Road. The Port Allen Marina Center and the Port Allen Industrial Center are each located less than one mile from the Petition Area. See Exhibit 4.

As noted in Section VI, basic services are available.

Sufficient reserve areas for foreseeable urban growth are available. In preparing the Draft General Plan, the County has examined areas on Kaua'i that are appropriate for future urban growth. Significantly, the Draft General Plan has recognized the Project and its proposed land use changes. See Exhibit 23.

**C. HAR § 15-15-18(3)**

As noted in Section V, the land of the Petition Area has satisfactory topography and drainage. The Petition Area is not located within the tsunami evacuation zone identified by the National Oceanic and Atmospheric Administration. The Petition Area also has a limited chance of flooding as it is located within Flood Zone X, designated as "areas outside of the 0.2 annual chance floodplain." In regards to the dangers of earthquake activity, Kaua'i lies in a seismic zone designated as Zone 1, which indicates that ground accelerations of 7.5% of the acceleration due to gravity are likely to occur at a probability of 10% in a 50 year exposure time. See Exhibit 3 at Section 4.2.1.1.

Kaua'i Ordinance No. 808, Sediment and Erosion Control, describes proper procedures necessary for grading, soil erosion, and sediment control during earthwork activities. All work will be completed in accordance with current construction standards and all applicable County, State, and federal regulations. See **Exhibit 3** at Section 4.2.1.

**D. HAR § 15-15-18(4), (5)**

The Project is an extension of urban development to the west. A subdivision being developed by Kaua'i Habitat for Humanity lies immediately southwest of the Petition Area. In addition, the 'Ele'ele Nani residential subdivision is located on the opposite side of Kaumuali'i Highway from the Petition Area. See **Exhibit 13-A** at Chapter 3. The Project is thus contiguous with other existing urban areas, and an appropriate location for a new urban concentration.

The Project's conformity to the General Plan, Draft General Plan, and the Community Plan was noted in Section XI.

**E. HAR § 15-15-18(6)**

Reclassification of the Petition Area conforms to the standards set forth in HAR §§ 15-15-18(1)-(5).

**F. HAR § 15-15-18(7)**

The Petition Area is adjacent to existing and planned residential areas as noted in Section V. Furthermore, the Petition Area is within existing service areas for public infrastructure and support services, as noted in Section VI.

**G. HAR § 15-15-18(8)**

None of the lands within the Petition Area have a slope of twenty percent or more. The Petition Area has an average slope of four percent (4% grade). See **Exhibit 3** at Section 4.2.1.1.

**XIII. HAWAIIAN CUSTOMARY AND TRADITIONAL RIGHTS – HAR § 15-50-50(c)(21)**

Petitioner is aware of, and sensitive to, the existence and practice of native Hawaiian customary and traditional rights that are protected by Article XII, Section 7 of the Hawai'i State Constitution. In the Petition Area, however, the Cultural Impact Assessment concluded that there are no known traditional gathering activities or cultural practices. See **Exhibit 3** at Appendix G-1.

**XIV. WRITTEN COMMENTS – HAR § 15-15-50(C)(23)**

Written comments received by the Petitioner during the Environmental Assessment process are included in **Exhibit 3** at Appendix B. In addition, Petitioner has received comments from the community and agencies in response to its HRS Chapter 201H Application in **Exhibit 4** at Exhibit 8. Comments discussing the Project that arrived too late to be included in the FEA-FONSI and HRS Chapter 201H Application, or that were submitted as follow-up to earlier comments, are attached as **Exhibit 25**.

**XV. CONCLUSION**

The Project will provide much-needed affordable housing for families on the south and west regions of Kaua'i. Based on the foregoing, the Petitioner respectfully requests that the Commission find that the Petition complies with the necessary requirements of a petition for boundary amendment pursuant to HAR § 15-15-50. The Petitioner also respectfully requests that the Commission find that the proposed development meets the standards for determining Urban



District boundaries pursuant to HAR § 15-15-18, and therefore, grant the reclassification of the  
Petition Area from the Agricultural District to the Urban District.

Dated: Honolulu, Hawai'i, \_\_\_\_\_, 2017.

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DAVID J. MINKIN  
PETER J. HAMASAKI  
KELSEY S. YAMAGUCHI

Attorneys for Petitioner  
County of Kaua'i Housing Agency

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAI'I

In the Matter of the Petition of	)	Docket No. A17-802
	)	
COUNTY OF KAUA'I HOUSING	)	
AGENCY	)	
	)	
To Amend the Agricultural Land Use	)	
District Boundaries into the Urban Land	)	
Use District for certain lands situated at	)	
'Ele'ele, Kaua'i, Hawai'i; consisting of	)	
approximately 75 acres, Tax Map Key	)	
No. (4) 2-1-001:054	)	
_____	)	

**VERIFICATION OF PETITION**

KANANI FU, being first duly sworn, on oath, deposes and says that:

1. I am the Housing Director of the County of Kaua'i Housing Agency and in this capacity I am familiar with matters related hereto and I am knowledgeable to testify on behalf of the Petitioner.
2. I have personal knowledge of the matters set forth in the foregoing Petition and I am qualified and competent to make this verification.
3. I make this verification pursuant to § 15-15-39, Hawai'i Administrative Rules.

4. I have read the foregoing document and the contents therefore are true and correct to the best of my knowledge and belief.

Dated: Līhu'e, Kaua'i, Hawai'i, \_\_\_\_\_, 2017

\_\_\_\_\_  
KANANI FU

This \_\_\_\_\_ page **Verification of Petition** dated \_\_\_\_\_, was subscribed and sworn to before me by \_\_\_\_\_ on \_\_\_\_\_, in the First Circuit of the State of Hawaii.

\_\_\_\_\_  
Name:  
Notary Public, State of Hawaii

My commission expires: \_\_\_\_\_

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of	)	Docket No. A17-802
	)	
COUNTY OF KAUA'I HOUSING	)	
AGENCY	)	
	)	
To Amend the Agricultural Land Use	)	
District Boundaries into the Urban Land	)	
Use District for certain lands situated at	)	
'Ele'ele, Kaua'i, Hawai'i; consisting of	)	
approximately 75 acres, Tax Map Key	)	
No. (4) 2-1-001:054	)	
_____	)	

**AFFIDAVIT OF DAVID J. MINKIN**  
**ATTESTING TO SERVICE OF PETITION**

DAVID J. MINKIN, being first duly sworn, on oath, deposes and says:

1. Affiant is one of the attorneys for Petitioner County of Kaua'i Housing Agency ("**Petitioner**"), is licensed to practice law in the State of Hawai'i, is duly authorized to make this affidavit, and does so upon personal knowledge and belief.

2. County of Kaua'i Housing Agency is the Petitioner for a State of Hawaii Land Use District Boundary Amendment, for certain lands situated at 'Ele'ele, Kaua'i, Hawai'i; consisting of approximately 75 acres, Tax Map Key No. (4) 2-1-001:054

3. In compliance with §15-15-48(a), Hawai'i Administrative Rules, Affiant will on \_\_\_\_\_, serve a copy of the Petition for District Boundary Amendment by mailing said copy, postage prepaid, first class, in a United States post office ("**MAIL**") or by hand delivery ("**HD**"), to each of the following persons, addressed as follows:

PLANNING DEPARTMENT, COUNTY OF KAUA'I  
4444 Rice Street  
Lihu'e, Kaua'i, Hawai'i 96766

MAIL

OFFICE OF PLANNING, STATE OF HAWAII  
235 South Beretania Street  
6th Floor, Leiopapa A Kamehameha Building  
Honolulu, Hawaii 96813

HD

DAWN TAKEUCHI-APUNA, ESQ.  
Deputy Attorney General  
425 Queen Street  
Honolulu, Hawaii 96813

HD

KAUA'I COUNTY PLANNING COMMISSION  
c/o Planning Department, County of Kaua'i  
4444 Rice Street  
Lihu'e, Kaua'i, Hawaii 96766

MAIL

JEAN NISHIDA SOUZA  
P.O. Box 450  
Hanapepe, Hawaii 96716  
(Intervener)

MAIL

4. This Affidavit is provided in compliance with §15-15-50(c)(5)(C), HAR.

That further Affiant sayeth naught.

DATED: Honolulu, Hawaii, \_\_\_\_\_, 2017.

\_\_\_\_\_  
DAVID J. MINKIN

This \_\_\_\_\_ page Affidavit of David J. Minkin  
Attesting to Service of Petition dated \_\_\_\_\_,  
was subscribed and sworn to before me by \_\_\_\_\_  
on \_\_\_\_\_,  
in the First Circuit of the State of Hawaii.

\_\_\_\_\_  
Name:  
Notary Public, State of Hawaii

My commission expires: \_\_\_\_\_

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of ) Docket No. A17-802  
)  
COUNTY OF KAUA'I HOUSING )  
AGENCY )  
)  
To Amend the Agricultural Land Use )  
District Boundaries into the Urban Land )  
Use District for certain lands situated at )  
'Ele'ele, Kaua'i, Hawai'i; consisting of )  
approximately 75 acres, Tax Map Key )  
No. (4) 2-1-001:054 )  
\_\_\_\_\_ )

**AFFIDAVIT OF DAVID J. MINKIN  
ATTESTING TO MAILING OF  
NOTIFICATION OF PETITION FILING**

DAVID J. MINKIN, being first sworn on oath, deposes and says that:

1. Affiant is one of the attorneys for Petitioner County of Kaua'i Housing Agency ("**Petitioner**"), is licensed to practice law in the State of Hawai'i, is duly authorized to make this affidavit, and does so upon personal knowledge and belief.
2. This affidavit is made to comply with Section 15-15-50(d), Hawai'i Administrative Rules ("**HAR**") for the State of Hawai'i Land Use Commission ("**Commission**").
3. On \_\_\_\_\_, 2017, Petitioner filed with the Commission a Petition For Land Use District Boundary Amendment ("**Petition**") in Docket No. A17-802.
4. On \_\_\_\_\_, 2017, the same day that the Petition was filed with the Commission and pursuant to HAR Section 15-15-50(d), Petitioner sent a Notification of Petition Filing to persons included on the Statewide and Kaua'i County mailing lists provided to Petitioner by the Commission on or about \_\_\_\_\_, 2017, copies of which are attached hereto as Exhibit "A".

Further affiant sayeth naught.

DATED: Honolulu, Hawai'i, \_\_\_\_\_, 2017.

\_\_\_\_\_  
DAVID J. MINKIN

This \_\_\_\_\_ page **Affidavit of David J. Minkin**  
**Attesting to Mailing of Notification of**  
**Petition Filing** dated \_\_\_\_\_,  
was subscribed and sworn to before me by  
\_\_\_\_\_ on \_\_\_\_\_,  
in the First Circuit of the State of Hawaii.

\_\_\_\_\_  
Name:  
Notary Public, State of Hawaii

My commission expires: \_\_\_\_\_

Exhibit "A"

[Mailing List]

DRAFT



BEFORE THE LAND USE COMMISSION  
OF THE STATE OF Hawai'i

In the Matter of the Petition of	)	Docket No. A17-802
	)	
COUNTY OF KAUA'I HOUSING	)	CERTIFICATE OF SERVICE
AGENCY	)	
	)	
To Amend the Agricultural Land Use	)	
District Boundaries into the Urban Land	)	
Use District for certain lands situated at	)	
'Ele'ele, Kaua'i, Hawai'i; consisting of	)	
approximately 75 acres, Tax Map Key	)	
No. (4) 2-1-001:054	)	
_____	)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document will be duly served upon the following by mailing said copy, postage prepaid, first class, in a United States post office

("MAIL") or by hand delivery ("HD") on May 10, 2017:

PLANNING DEPARTMENT, COUNTY OF KAUA'I	MAIL
4444 Rice Street	
Līhu'e, Kaua'i, Hawai'i 96766	

OFFICE OF PLANNING, STATE OF HAWAI'I	HD
235 South Beretania Street	
6th Floor, Leiopapa A Kamehameha Building	
Honolulu, Hawai'i 96813	

DAWN TAKEUCHI-APUNA, ESQ.	HD
Deputy Attorney General	
425 Queen Street	
Honolulu, Hawai'i 96813	

KAUA'I COUNTY PLANNING COMMISSION	MAIL
c/o Planning Department, County of Kaua'i	
4444 Rice Street	
Līhu'e, Kaua'i, Hawai'i 96766	

JEAN NISHIDA SOUZA  
P.O. Box 450  
Hanapēpē, Hawai'i 96716  
(Intervener)

MAIL

DATED: Honolulu, Hawai'i May 10, 2017.

A handwritten signature in black ink, appearing to read 'D. J. Minkin', is written over a horizontal line.

DAVID J. MINKIN  
PETER J. HAMASAKI  
KELSEY S. YAMAGUCHI

Attorneys for Petitioner  
County of Kaua'i Housing Agency